

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Thomas Juliano	Team: Squad #12	CCRB Case #: 201701060	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 02/08/2017 3:30 AM	Location of Incident: § 87(2)(b) 101st Precinct stationhouse	Precinct: 101	18 Mo. SOL 8/8/2018	EO SOL 8/8/2018	
Date/Time CV Reported Thu, 02/09/2017 12:19 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 02/09/2017 12:19 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Sean Donohue	17693	960474	101 PCT
2. POM Joseph Duerr	28539	953830	101 PCT
3. SGT Matthew Lewis	4736	941054	101 PCT
4. LT John Mcnevin	00000	943557	101 PCT
5. SGT Juan Quiroz	03694	939263	101 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Joseph Duerr	Force: At § 87(2)(b) in Queens, Police Officer Joseph Duerr pointed his gun at § 87(2)(b)	§ 87(2)(g), § 87(4-b)
B.LT John Mcnevin	Force: At § 87(2)(b) in Queens, Lieutenant John Mcnevin pointed his gun at § 87(2)(b)	§ 87(2)(g), § 87(4-b)
C.POM Joseph Duerr	Force: At § 87(2)(b) in Queens, Police Officer Joseph Duerr used physical force against § 87(2)(b)	§ 87(2)(g), § 87(4-b)
D.LT John Mcnevin	Force: At § 87(2)(b) in Queens, Lieutenant John Mcnevin used physical force against § 87(2)(b)	§ 87(2)(g), § 87(4-b)
E.POM Sean Donohue	Discourtesy: At § 87(2)(b) in Queens, Police Officer Sean Donohue spoke discourteously to § 87(2)(b)	§ 87(2)(g), § 87(4-b)
F.POM Joseph Duerr	Discourtesy: At § 87(2)(b) Police Officer Joseph Duerr spoke discourteously to § 87(2)(b)	§ 87(2)(g), § 87(4-b)
G.SGT Matthew Lewis	Discourtesy: At § 87(2)(b) in Queens, Sergeant Matthew Lewis spoke discourteously to § 87(2)(b)	§ 87(2)(g), § 87(4-b)
H.LT John Mcnevin	Discourtesy: At § 87(2)(b) in Queens, Lieutenant John Mcnevin spoke discourteously to § 87(2)(b)	§ 87(2)(g), § 87(4-b)
I.SGT Juan Quiroz	Abuse: At the 101st Precinct stationhouse, Sergeant Juan Quiroz strip-searched § 87(2)(b)	§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(b)	§ 87(2)(g), § 87(4-b)

Case Summary

On February 9, 2017, § 87(2)(b) filled this complaint with the CCRB via the online website.

On February 8, 2017, at approximately 3:30 a.m., PO Donohue and Sgt. Lewis attempted to stop a dark colored Infinity the partial license plate § 87(2)(b) driven by a male black driver, which was double parked on Beach 59 Street in Queens. The vehicle fled from the officers at a high rate of speed toward Nassau County. Sgt. Lewis put over the radio that he was looking for the vehicle and provided a description.

§ 87(2)(b) had drove to his sister's house, located at § 87(2)(b) in Queens in his black Infinity with the partial license plate § 87(2)(b). After parking his car, § 87(2)(b) closed his eyes in his vehicle and fell asleep. § 87(2)(b) awoke to Lt. McNevin and PO Duerr pointing their firearms at him (**Allegations A and B**). Lt. McNevin and PO Duerr then took § 87(2)(b) out of the vehicle and threw him on the ground. (**Allegations C and D**). § 87(2)(b) asked what was going on and multiple officers told § 87(2)(b) to "Shut the fuck up" (**Allegations E, F, G, and H**). PO Donohue told § 87(2)(b) that he was just involved in a high-speed chase, and arrested him. After being brought back to the stationhouse, Sgt. Quiroz told § 87(2)(b) to remove his sweatpants. § 87(2)(b) refused. Sgt. Quiroz instructed PO Donohue to remove § 87(2)(b)'s sweatpants (**Allegations I**). While in the holding cells, § 87(2)(b) was informed by PO Donohue that he was not the individual that they were looking for. § 87(2)(g), § 87(2)(b)

§ 87(2)(b) was charged with obstruction of governmental administration and marijuana possession in regards to this incident.

There are no video recordings of this incident.

This case is over the 90 day benchmark as Sgt. Quiroz was in narcotics training for six weeks and could not be scheduled. At the time of the incident, Sgt. Quiroz was assigned to the 101st Precinct, but he has since been transferred to Narcotics Borough Brooklyn North.

Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation due to an arrest without a DAT.
- As of July 18, 2017, § 87(2)(b) has not filed a notice of claim with the New York City Comptroller's Office regarding this incident. (**Board Review 1**)

• § 87(2)(b)

Civilian and Officer CCRB Histories

• § 87(2)(b)

- PO Donohue has been a member of the NYPD for one year and has no prior CCRB complaints.
- PO Duerr has been a member of the NYPD for four years and has no substantiated CCRB complaints. In CCRB case number 201703559, an allegation of force was administratively closed.
- Sgt. Lewis has had 23 other complaints, involving 61 allegations filed against him in his 11 year tenure at the NYPD. § 87(2)(g)
- In CCRB case number 201202903, allegations of vehicle stop, vehicle search, frisk, and search of person were substantiated against Sgt. Lewis. The board recommended charges against Sgt. Lewis. Sgt. Lewis was found not guilty for the allegations of vehicle stop and frisk. Sgt. Lewis was found guilty for the allegation of vehicle search and forfeited four vacation days. Sgt. Lewis was found guilty for the allegation of search of person and forfeited four vacation days.
 - In CCRB case number 201401420, allegations of physical force, threat of force and discourtesy were substantiated against Sgt. Lewis. The board recommended charges against Sgt. Lewis. Sgt. Lewis was found not guilty on the allegations of threat of force and discourtesy, and was found guilty for the allegation of physical force and forfeited 15 vacation days.
- Lt. McNevin has been a member of the NYPD for 10 years and has no prior CCRB complaints.
- Sgt. Quiroz has been a member of the NYPD for twelve years and has had 16 allegations pled against him. In CCRB case 200914325, allegations of Abuse (threat of force), Abuse, (retaliatory summons), and Abuse, (stop) were substantiated. In CCRB case 200918246 an allegation of Force (gun pointed) was substantiated. § 87(2)(g)

Findings and Recommendations

Allegation A –Force: At § 87(2)(b) in Queens, Police Officer Joseph Duerr pointed his gun at § 87(2)(b)

Allegation B–Force: At § 87(2)(b) in Queens, Lt. John McNevin pointed his gun at § 87(2)(b)

§ 87(2)(b) stated that he was sleeping in his black Infinity, with the license plate number that began § 87(2)(b). He awoke to PO Duerr and Lt. McNevin pointing their firearms at him through his car windows (**Board Review 4**).

Sgt. Lewis and PO Donohue stated that they attempted to stop a double parked vehicle on Beach 59 Street. After the officer's exited the vehicle, the vehicle fled at a high rate of speed. Sgt. Lewis and PO Donohue lost sight of the vehicle. Sgt. Lewis put over the radio that he was pursuing a dark colored Infinity with a black male driver for a possible grand larceny auto (GLA) with the partial license plate § 87(2)(b). Sgt. Lewis also put over the radio that the vehicle was heading toward the Nassau County boarder. After § 87(2)(b) was arrested, PO Donohue reviewed camera

footage from a building on Beach 59 Street and determined that § 87(2)(b) was not the individual who initially fled from the officers (**Board Review 9 and 10**).

ICAD information shows that at 04:46, it was put over the radio that a sergeant was following a grey Infinity, partial plate § 87(2)(b) with a male black driver last seen on Seagirt Boulevard. At 04:51 Lt. McNevin reported that he had a vehicle stopped across from § 87(2)(b). At 04:52 it was put over the radio that the vehicle was being pursued for a possible grand larceny auto (GLA) (**Board Review 7**).

PO Joseph Duerr stated that he received a call over the radio from Sgt. Lewis, stating that he was pursuing a vehicle that was possibly stolen with a possible firearm. Sgt. Lewis provided a description of the vehicle, including the make, mode, and a partial license plate, and a description of the driver who was a black male. PO Duerr could not recall the description that he received during his interview. While canvassing, PO Duerr and Lt. McNevin came across § 87(2)(b)'s vehicle which matched the description. PO Duerr saw § 87(2)(b) leaned back in the seat, as if trying to hide, and he also saw him reach to the right near the center console. PO Duerr exited his vehicle and pointed his firearm at § 87(2)(b). PO Duerr pointed his firearm because he did not know if there was a firearm in the vehicle, because § 87(2)(b) was reaching toward the center console, and because the vehicle matched the description of a vehicle linked to a violent crime. (**Board Review 5**)

Lt. McNevin stated that he and PO Duerr received a call over the radio from Sgt. Lewis, stating that Sgt. Lewis was looking for a grey Infinity with a partial license plate number § 87(2)(b). Lt. McNevin did not know why the vehicle was being looked for. While canvassing for the vehicle, Lt. McNevin and PO Duerr came across a parked running car that matched the description. The windows were tinted and Lt. McNevin could not see inside of the vehicle. After issuing commands for § 87(2)(b) to open the window, open the door, or to show his hands for 20-30 seconds, all of which were ignored, Lt. McNevin drew his firearm and pointed it at § 87(2)(b) through the glass. Lt. McNevin pointed his firearm at § 87(2)(b) because he thought that he may have had a firearm due to his commands being ignored, and also because he knew that Sgt. Lewis was looking for the vehicle and he trusted Sgt. Lewis's judgement (**Board Review 6**).

DCT case Lt. Brian McCaughey 201308590: An officer pointed his firearm at a 13 year old minor after receiving a radio run for assistance without any additional details. The officer could not articulate any other reasons for pointing his firearm. The officer pled guilty and was charged with a loss of 30 vacation days (**Board Review 8**).

§ 87(2)(b), § 87(2)(g)
§ 87(2)(b), § 87(2)(g)
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§ 87(2)(b), § 87(2)(g)
§ 87(2)(b), § 87(2)(g).

Allegation C –Force: At § 87(2)(b) in Queens, Police Officer Joseph Duerr used physical force against § 87(2)(b)

Allegation D –Force: At § 87(2)(b) in Queens, Lieutenant John McNevin used physical force against § 87(2)(b)

It is undisputed that PO Duerr and Lt. McNevin removed § 87(2)(b) from his vehicle at § 87(2)(b)

§ 87(2)(b) stated that PO Duerr and Lt. McNevin removed him from his car, and that he did not resist and went with the officers when he was being pulled. After being taken out of the vehicle by PO Duerr and Lt. McNevin, he was grabbed by his hands, and slammed to the ground. § 87(2)(b)'s left shoulder hit the ground first and his face hit the ground second (**Board Review 4**).

PO Duerr stated that he asked § 87(2)(b) to roll down his window. § 87(2)(b) initially refused, but then rolled down his window approximately one inch and began talking to the officers in an aggressive manner, asking why he was being stopped and telling PO Duerr, “Go fuck yourself.” PO Duerr asked § 87(2)(b) to step out of the vehicle and § 87(2)(b) refused. PO Duerr opened the driver’s door and § 87(2)(b) attempted to close it but was unsuccessful. PO Duerr grabbed § 87(2)(b)'s left arm and pulled him out of the vehicle and onto the ground to be handcuffed. § 87(2)(b) initially resisted being pulled out of the car, but then was compliant and went down to the ground on his own. PO Duerr’s knee hit the ground before § 87(2)(b) PO Duerr could not recall what part of § 87(2)(b)'s body hit the ground first. PO Duerr did not have to use much force to take § 87(2)(b) to the ground (**Board Review 5**).

Lt. McNevin stated that § 87(2)(b) was pulled out of the car by PO Duerr. § 87(2)(b) was not being compliant, and was moving his shoulders around as if trying to break free. PO Duerr placed § 87(2)(b) onto the ground to be handcuffed. Lt. § 87(2)(b) could not recall what part of § 87(2)(b)'s body hit the ground first (**Board Review 6**).

§ 87(2)(b), § 87(2)(g)

Allegation E –Discourtesy: At § 87(2)(b) in Queens, Police Officer Sean Donohue spoke discourteously to § 87(2)(b)

Allegation F –Discourtesy: At § 87(2)(b) in Queens, Police Officer Joseph Duerr spoke discourteously to § 87(2)(b)

Allegation G –Discourtesy: At § 87(2)(b) in Queens, Sergeant Matthew Lewis spoke discourteously to § 87(2)(b)

Allegation H –Discourtesy: At § 87(2)(b) in Queens, Lieutenant John McNevin spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated that upon waking up to officers at his window, that the officers stated, “Open the fucking door.” Later into the interaction, after § 87(2)(b) was handcuffed, he

attempted to ask what was going on. Multiple police officers told § 87(2)(b) “Shut the fuck up.” (Board Review 4)

PO Donohue, PO Duerr, Sgt. Lewis, and Lt. McNevin all denied using any profanity with § 87(2)(b) (Board Review 5, 6, 9, and 10).

§ 87(2)(b), § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)

Allegation I –Abuse of Authority: At the 101st Precinct stationhouse, Sergeant Juan Quiroz strip-searched § 87(2)(b)

§ 87(2)(b) stated that while being lodged at the 101st Precinct stationhouse, Sgt. Quiroz ordered § 87(2)(b) to remove his sweatpants. § 87(2)(b) refused, and Sgt. Quiroz ordered PO Donohue to pull down § 87(2)(b) s sweatpants. There were no other prisoners in the holding cells at the time (Board Review 4).

Sgt. Quiroz denied strip searching § 87(2)(b) Furthermore, Sgt. Quiroz denied entering the holding cells while § 87(2)(b) was being lodged (Board Review 11).

PO Donohue denied pulling down § 87(2)(b) s sweatpants. Furthermore, PO Donohue was not instructed by any officers to pull down § 87(2)(b) s sweatpants (Board Review 9).

§ 87(2)(b), § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b).

§ 87(2)(g), § 87(4-b)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(g)
§ 87(2)(g)
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§ 87(2)(g)
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§ 87(2)(g)

§ 87(2)(g)
§ 87(2)(g)

Squad: 12

Investigator:	_____	<u>Thomas Juliano</u>	_____
	Signature	Print	Date
Squad Leader:	_____	<u>IM Nicholas Carayannis</u>	_____
	Signature	Title/Print	Date